



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 26, 1996

Mr. David Caylor  
City Attorney  
The City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

OR96-0417

Dear Mr. Caylor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38499.

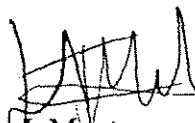
The City of El Paso (the "city") received a request for copies of "[t]he El Paso Comprehensive Park and Open Space Plan" and "[t]he Comprehensive Plan for Downtown Redevelopment." You have submitted a copy of the "Mayor's Proposal for Downtown Redevelopment" for our review and you contend the requested information is excepted from required public disclosure under section 552.106 of the Government Code. We assume that you have already released a copy of the information denoted as "The El Paso Comprehensive Park and Open Space Plan" to the requestor as you neither address the document in your request letter nor submit a copy of the document for our review.

The city claims that one of the requested proposals is excepted under section 552.106. Section 552.106 protects drafts and working papers involved in the preparation of proposed legislation. The purpose of the exception is similar to that of section 552.111: to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the legislative body and to thereby protect the internal "deliberative" or policy-making processes of a governmental body. Open Records Decision No. 460 (1987). Section 552.106 does not except purely factual material; rather, it excepts only policy judgments, recommendations, and proposals involved in the preparation of proposed legislation. A comparison or analysis of factual information is within Section 552.106. Open Records Decision No. 460 (1987) at 5. Section 552.106 applies only to drafts and working papers prepared by persons with some official responsibility to prepare them for the legislative body. *Id.*

Without further explanation, you simply state that the document in question is legislative in character because the final document requires approval from the city council and it involves major policy and financial decision which can be made only by the city council. Additionally, you do not indicate the document's ultimate purpose other than that the final document will comprise a portion of the city's comprehensive plan. No mention is made as to whether it will be an ordinance or a resolution. *Id.* at 2. We therefore conclude that the mayor may not withhold the proposal from required public disclosure based on section 552.106 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet L. Monteros  
Assistant Attorney General  
Open Records Division

JIM/ch

Ref.: ID# 38499

Enclosures: Submitted documents

cc: Patrick C. McDonnell, Reporter  
El Paso Herald-Post  
P.O. Box 20  
El Paso, Texas 79999  
(w/o enclosures)